

MALAY LAW IN NEGRI SEMBILAN.

BY

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IN 1888, I wrote an appendix to my Administration Report on the Negri Sembilan for 1887 entitled "Origin and Constitution."* It has been suggested that what was only a very brief and superficial sketch might further be enlarged upon. What I wrote was explanatory of my Report, was sketchy and in many points inaccurate, and it was not written for publication in a Journal. This paper, however, was reprinted in the Asiatic Society's Journal, though this had not been my intention when I wrote the Report, and it is excusable, I think, to say that difficulties have arisen in writing what I had intended to write later, viz., a far fuller and more careful paper for publication in connection with this very interesting subject. Without constant repetition of the previous paper this is impossible. Thus I have decided upon taking the question from a different view, and giving some illustrations of cases and decisions in Malay custom connected with their origin, such custom being of a curiously complicated form and derived from a singular origin of Muhammadan Malay occupation and are, if not unknown, ignored in other Malay States.

First and foremost it must be understood that instead of Bugis and other Malay pirates occupying a coast line, as in the case of Selangor and Perak, driving back and taking as slaves the non-Muhammadan aborigines of the Peninsula termed "Sakei," "Jakun," "Semang" and "Waris laut," the people of Menangkabau who penetrated into the Negri Sembilan *vid*

* *Vide* "The Negri Sembilan, their Origin and Constitution," 1889.

Malacca or the Muar River came as settlers. They came in search of pastures new, possibly on account of troubles and disturbances in the State of Menangkabau in Sumatra, just as we did in leaving English shores for the continent of America. There were no Rajas or Warriors on the look out for conquest and plunder, merely peaceful emigrants from Sumatra who hoped to find fertile and rich countries in which they might quietly settle and make their home. Now it is more than probable that all these settlers came from the interior of Sumatra. They were accustomed to mountainous, hilly districts where existed rich alluvial valleys in which they knew they would find soils fertile and easy of irrigation. Thus, taking a number of the States as instances, we have Rembau and Naning both inland from Malacca and within easy reach of high mountains—Lédang (Ophir) on the one side, and the range of hills from Gunong Tampin running to the North. Those who penetrated here were evidently not piratically inclined, they came to cultivate, to live and let live. Then, we have Sungei Ujong where all the original settlers are to be found at Pantei (at the foot of Gunong Berembun) and in the upper reaches of the Linggi River, though later they occupied the Coast, in contention however constantly with the Rajas of Selangor (very piratically inclined gentlemen), who did all they knew to harass the people of the interior. This is a very possible explanation of the claims of Selangor to Lukut and Sungei Raya, which can only be viewed in connection with some such piratical occupation, and not from any real territorial rights. Malacca was a very ancient Sultanate dating from even before the Muhammadan religion reached the Straits of Malacca. I add this, as it might be said, in speaking of territorial rights, "Then why did not the Negri Sembilan possess Malacca?" Again the Sultans of Malacca and of Menangkabau were apparently closely related, the Negri Sembilan settlers acknowledging the Sultanate of Malacca supreme, as it was, in the Malay Peninsula, and when this Sultanate was driven by the Portuguese to settle in Johor, they acknowledged the ancient Sultans of Johor, of which the present Sultan is only a distant connection.

The inhabitants of the State of Johol, which includes Ulu Muar, Terachi and Jempol, are said to have reached this country by ascending the Muar River. The origin of the word Muar is said to be from the Malay word "Mua," for which the best translation may be "satiated." Thus "*Suda mua mudek sungei ini*"—"I am utterly satiated (by fatigue) in ascending this river." Thus Muar became the name given to the district from the Segamat boundary to Kwala Jelei in the State of Johol. The settlers, however, appear to have recovered their strength and colonised again "Ulu Muar," almost the most populous State, at present, of the Negri Sembilan. From this again we have Kwala Muar, the name given to the small territory on the Muar River from the Segamat boundary to the mouth of the river. Segamat was ruled by the Sultans of Johor, through the Temenggong of Segamat, and Kwala Muar was never a place of any importance except as the mouth of a large river and the residence latterly of Sultan ALI of Johor. Ulu Klang, one of the four original States of the Negri Sembilan, appears to have been principally so in origin as but very few Menangkabau settlers went there, and it was more from the aboriginal point of view that it was considered one of the Negri Sembilan, though in connection with the ancient constitution there is no doubt that it formed a part. This I described more or less in my original paper, I also sketched the arrival of emigrants from Sumatra, and later the demand by these thriving colonists from Menangkabau for a Raja from that Sultanate to be suzerain and constitutional Sultan of the Negri Sembilan, *i.e.*, for a number of States which had become so populous that the necessity for a Raja and high court of appeal had become felt.

From what is here written and from my original paper, the way is paved to giving intelligibly a number of political cases and cases of custom which may go further to give a general insight into custom from origin. Much of what occurs here in connection with Malay laws is frequently found in other Malay districts of the interior, such as Kinta, Ulu Selangor and Ulu Pahang, where the Malay custom is closely allied with aboriginal customs and ideas.

In order to treat the question in a consecutive form, it will be necessary to take first the aboriginal or as here termed "Rai'at" cases on custom first. The "Baten" or chiefs are, according to ancient usage, closely connected with the Malay tribe from which the Penghulu of States are in nearly all cases elected. The four principal "Baten" are of Ulu Klang, Sungei Ujong, Jelevu and Johol. They had a strong voice in the election of the Muhammadan Penghulu. The cause is apparent. The Menangkabau colonists married the daughters of Batens. Their children were Muhammadans and the female children (in accordance with Menangkabau law) inherited and became the origin of the "Waris" or tribe of "Beduanda" which was declared to be the inheriting civilized tribe, whilst at the same time they still had to recognise the Baten or Rai'at powers in the mountains and forests and preserve their position and identity in connection with the "Beduanda" tribe. This explains the custom of female inheritance and according to Menangkabau custom a man cannot marry in his tribe, that is, in the tribe of his mother. Thus a Beduanda man must marry into another tribe and thus his children belong to the tribe of the mother.

It is often most interesting to converse with Baten and Rai'at chiefs on their traditions and laws especially in tracing the connection with the Malay Muhammadan customs. A Baten will invariably tell you that all the forest and waste lands, called by them "Gaung," "Guntong," "Bukit," "Bukau" as inclusive of everything uncultivated, belong to them. This is by origin correct, but there is at the same time no doubt that they have parted with their rights to the Muhammadan tribe of Beduanda in all cases of Government concession and taxation. Still the Datoh of Johol pays to the Baten of Johol a proportion of the revenues derived from waste lands through his minister the Jenang of Johol, who is, so to speak, minister for the aborigines. The Baten often collect themselves where the Beduanda are remiss in doing so. For instance, in Muar (*i.e.*, on the reaches of the Muar River above the Segamat boundary) Baten Gemala, who is the principal Baten of Johol, told me he collected a fee that he called "*panchong alas*" from the Malays who

collected jungle produce. The amount of the fee was insignificant, being \$1 per man once in three years. He told me with some pride that this was the "*peti duit orang utan*" or "the penny box of the man of the woods." The simplicity of this form of taxation was most curious and shows the freedom from guile of the aboriginal mind. He was attempting at the time I first met him to collect this fee for the past three years, not in advance. I tried to assist him, but my attempt was vain. He was somewhat indignant at the falseness of the Malay, but for my own part I was not astonished at it. In talking of his position with reference to the Datoh of Johol he said that as between him and the Datoh "*adat tiada berubah, perjanjian tiada beraleh, setia tiada bertukar,*" i.e., "custom cannot be altered, agreements cannot be changed, alliances cannot be revoked." This is a very beautiful expression of Malay fealty and loyalty. Sometimes a Baten or Jerukrah who is minister to the Baten is very indignant. He will say "the Penghulu get thousands of dollars now in selling our forests." Then I explain to them that it is necessary that this earth should be developed. I point out to them that they are not able to govern or regulate such things and that they cannot truly claim the forests as being theirs, but that what they can claim is to have all that they require for their maintenance from forests. They will then reply that this is quite right and that they are really perfectly happy as long as they have forests reserved to them and that they do not know what to do with money. They are delighted with presents of tobacco, stuffs and other trifles. If you give them money they generally go home to the forest and bury it, never telling any one where, so that on their death it is lost. I know one man who likes getting money and he always comes alone to see me and asks for it. He comes alone so as to be able to bury the money without difficulty. He has evidently a craving for silver and experiences the satisfaction of a miser in knowing that he has money, though he does not make use of it.

The Rai'at talk in the most proverbial manner and constantly quote sayings which have certainly become Malay, but

which often and often are unknown to Malays of the present day. It is a usual thing for a Malay to exclaim when a Rai'at is talking "*pandei sekali chakap*"—"how clever he is at talking"—and he looks at him in admiration. The Malay, however, knows the Rai'at's intense simplicity, and if he wants any advantages from him he will get all he requires. He will also laugh at him, though in a friendly chaffing way and it is often amusing to hear the Rai'at get by far the best of the laugh.

The Rai'ats never object to the collection of revenues by British Officers. They say that the English know how to do it and that they do it rightly and that it should be so, but they say the Malays know nothing about it and that when money comes into a Malay country it makes nothing but difficulties and trouble. They are lookers on, and it is hardly necessary to say how correct their views are.

A Rai'at has the greatest dread of a grant for land; nothing will persuade him to take out a grant and if pressed, which in the Native States is unnecessary, he will leave the country and travel away into the mountains of the interior. Anything binding, any direct taxation or registration drives them away.

Their real objection to taking out grants for land is because of their custom that if there is a death in the house, they must leave the place and settle elsewhere generally many miles away.

The origin of land tenure here is very curious and probably unknown in any other State of the Malay Peninsula. When the original settlers arrived, they ingratiated themselves with the aborigines and first of all no doubt got free gifts of forest land from the Baten. Later on there probably was competition for waste lands in fertile valleys and presents were given to the Baten for the land. This resulted later in the sale of land to the Muhammadan settlers. The price was a knife or a weapon, a piece of cloth or some article valued by the Rai'at, but it became an actual sale. According to Muhammadan law, land cannot be sold, it is God's land and man cannot sell it. Thus here we have distinctly the aboriginal origin in the sales of waste lands. Later, as the Muhammadans became powerful

in the country, the Muhammadan tribe of Beduanda took up the sale of waste lands and made considerable profit by it, and during the last twenty years, the Beduanda chiefs have sold waste lands of, say, three or four acres in extent for eight and ten dollars and sometimes more.

As this custom was against Muhammadan law it was easy for the Government to put a stop to an usage which caused many disputes, trouble and even bloodshed in the country.

In my article printed in this Journal, 1889, I have given the dry facts in connection with origin and constitution. The tribes are governed by the "*Adat Perpatih*" and by the customs derived from the aborigines. With the Raja family this is not the case, and the "*Adat Temenggong*" governs property and inheritance.

In order to explain by practical instances the entire constitution, I will now give a number of political and customary cases which have occurred to my knowledge as these may be useful in understanding a somewhat elaborate constitution and code of laws. I must remark at the same time that in quoting past cases I do not wish in any way to criticize what was done in the past, when it was absolutely impossible to make head or tail of the intricate laws of these States and when we had the very smallest experience in the Malay Peninsula.

First of all, I would refer to the case of the Yam Tuan Mudaship of Rembau. An Arab Syed (Saban) from Malacca married a daughter of the Yam Tuan Muda Raja Ali of Rembau. He learnt something of the tribal laws of Rembau and what to him was the great thing the law of female inheritance. He advised his father-in-law to abdicate in his favour. At this the Penghulu and Lembagas of Rembau were furious, refusing to have a Syed as Yam Tuan Muda. They applied for assistance from the Yam Tuan of Sri Menanti and together they drove the Syed and the other Raja out of the country. After this the British Government quite rightly arranged with the Rembau Chiefs that Tampin should be settled on the Raja family of Rembau, Rembau refusing to accept a Yam Tuan Muda for the future. Syed Saban took possession of Tampin.

Now in this case the Syed was all wrong. He learnt a little

of the laws of the country, but not enough. Female inheritance does not follow in the Sultanate or Raja Mudaship, but only amongst commoners in the tribes, and the Yam Tuan and the chiefs of Rembau were justly incensed. The Syed after having been the means of dispossessing his father-in-law, became his lawyer so to speak, being a man who had experience of the outer world. The only wrong result has been that instead of the true Raja family obtaining Tampin, the Syed descendants of the clever Syed Saban have inherited, and the other Rajas of Rembau get comparatively nothing.

The case of the Sungei Ujong war is interesting. The late Syed Aman, Klana of Sungei Ujong, was the son of another such Arab Syed who married a woman of the Beduanda tribe in which the Dato' Klana is elected. On the death of Dato' Klana Sendeng, Syed Aman got himself elected as Klana of Sungei Ujong and this led to one long dispute with the Dato' Bandar who is the other great Waris Chief of the State. Syed Aman cleverly sought the assistance of the British Government, at the same time saying that he was Klana and Raja (being a Syed) combined and that he would no longer acknowledge the suzerainty of the Yam Tuan of Sri Menanti. This brought down upon him the wrath of Sri Menanti. Syed Aman, however, had already obtained British protection, he was protected in his State, and the Yam Tuan of Sri Menanti, who was really quite right, was repulsed with great slaughter, and his country occupied by British troops. Sungei Ujong thus became independent. This case brings to notice the law that it is illegal for a Raja to marry in the tribe of Beduanda for fear that the offspring might become Penghulu and as a Raja usurp the Rajaship at the same time. "*Penghulu dia Raja dia*" is the phrase given, or perhaps more properly "*Undang dia ka' adilan dia.*"

The same thing happened in Jelebu. The present Penghulu is a Syed and on the death of the late Yam Tuan Muda of Jelebu he successfully intrigued in getting rid of the Raja family and governing alone in Jelebu.

It is impossible that Malay States such as these should be ruled in accordance with constitution and custom, without a

Raja who is independent of all the commoners of the State and who can control the actions of the "commoner" chiefs, and without the Raja, the whole constitution becomes a chaos. By removing this link the chain falls to pieces. I will give an instance of this. Ever since the Yam Tuan Muda of Rembau ceased to exist, the Penghulu alone has had to rule a turbulent people with whom he is connected by marriages and intermarriages, and since that there has been nothing but difficulty in Rembau. He was being dragged in every direction, his decisions were disregarded and not a single decision did he give that was deemed right. He had no longer the support of the Raja, thus the chiefs of tribes, who are numerous, attacked him in every direction and would have been glad to get rid of him in the same way as he had got rid of the Raja.

He used to say to the Chinese who took up land for planting in Rembau "*Fikatau kris terchabut sahaya yang sarongkan*" "If the kris is drawn I will replace it in its sheath." This was a vain boast, as he could not, being a commoner, and there being no fear of him as in the case of a Raja.

Another case in point is that of the Yam Tuan of Sri Menanti. As soon as the Klana of Sungei Ujong became independent, by our assistance, the other States of Sri Menanti all thought that they would like the same thing, and the disputes, the bloodshed and general chaos in these States became simply indescribable. Seeing the Penghulu anxious to get rid of the Raja, the Lembaga started fighting the Penghulu and the Chiefs of families fought the Chiefs of tribes.

There are a number of cases which might be quoted, but I think that the above demonstrate the law of "*Lembaga kapada Undang, Undang kapada kaadilan.*"

In order to put things right here in 1884 it was necessary really to put everything back to what it was 20 years before. To put the Raja in his place, the Penghulu in his, the Lembaga and the chief families in a tribe in theirs. In some tribes there were as many as six Lembaga in Sri Menanti in 1887. There were also two Penghulu in two of the States. The only thing to do was to bring the constitution to bear and adhere strictly to it, and very stringent measures were taken in order to

restore peace and order and to guarantee the proper power of each Chief of the State. A false Penghulu was deported, and a number of false Chiefs detained until they would acknowledge the Chief of Tribe, recognised by the Raja and the Penghulu.

Members of the chief families in a tribe were threatened for bringing got up cases against the Lembaga and in a short time everything resumed its proper condition. But this was not all, the Waris tribe was clamouring for revenues, was selling land and claiming lands from the tribes as not having been paid for when occupied ten and fifteen years ago. The Waris were treated as a tribe and the Chiefs of the Tribe only recognised and they were allotted a percentage on the revenues derived from waste lands. The sale of land and the claiming of the value of occupied lands was knocked on the head by Muhammadan law as already described. The Chief in each tribe was kept responsible for his tribe and was called and is now called in every case, in or out of Court, affecting his tribe. Every Chief was told that, in every case the ancient usages and constitution would be adhered to, and he was warned that any departure from the same would be likely to cause his dismissal from office. The Chiefs soon saw how much better this was and how secure each man's position had become. The Raja was treated as supreme and all the rules of homage and the laws of the Istana were strictly enforced, the Raja at the same time recognising the British Officer in the administration of the State and of its Courts.

The above has, I think, explained a great deal which might not have been understood except by illustration. It shows the position of all the Chiefs, and from this I will pass to a number of cases in customary laws.

The method of the election of the Raja, the Penghulu and Lembaga have been briefly described in the original paper. I will, however, give an instance of the election of a Lembaga of one of the principal tribes here, viz., that of Sri Lemak Pahang the Chief of which is also Deputy Penghulu of Ulu Muar (*Pangku Penghulu serta haluan sembah*). There are six families in this tribe from which the Chief of the Tribe can be elected. These families come in turn for the election of the Chief. At the last

election, in troublous times the order in which the families stood for the election of the Chief had been taken wrongly. It may be understood how this disturbed the equanimity of the various families when the question of succession again had to be decided. First of all it was impossible to get the six families to arrive at an agreement or an election. This being the case the question went on appeal to the Penghulu of Ulu Muar, who is an old man and imagined that with a British Officer in the State he could put in his favourite relation in the tribe regardless of families and be supported in so doing. The tribe however knowing that the constitution was being carefully adhered to would not accept the Penghulu's decision and the case went to the Dato' of Johol who did not wish to interfere openly with the Penghulu of Ulu Muar and recommended that they should go to the Resident. The Raja was then consulted. He was of course indifferent as to who was elected Lembaga and the case was fully inquired into. One of the families had been missed over and the question was whether the chieftainship should return to that family and then go on or whether the order of the families should be proceeded with as if there had been no previous mistake. It was decided that what had been, had been ("*yang sudah, sudah*") and that the next family in order should take the rank. Directly this was decided and upheld there was no further trouble and in a few days all the families acquiesced in this being the best: it was then easy to elect the individual in the family to be Lembaga.

Nothing can be more dangerous in these States than for any one to practice what we call patronage. For instance, to say "I want this man as Chief. He is intelligent and he can read and write and I won't have this ignorant dirty looking individual." Such action throws the whole system into chaos, and not only that but the intelligent reading and writing man imagines that he has more power than he really has because he has been selected above all others, regardless of custom, and before long the whole tribe is up in arms, generally justly, at his doings and he has to be dismissed.

In Terachi, in 1887, there were two Penghulu. One of them,

and the right one, was recognised by the Raja and by the Dato' of Johol. The other one had half the State on his side, but he was really wrong though he had a grievance. In the origin of things there were two families in Terachi who ruled. A former Penghulu had formally renounced the office for his family. He was a very strict Muhammadan and did not consider that such worldly things as office should be entertained in his family. Thus the office devolved entirely on the other family for election. This was ratified. The descendants, however, of this devout Mussulman did not view the matter in the same light. There was a good deal of trouble on this score in old days and a settlement was arrived at of creating an officer in the exempted family to be called "Andatar." This smoothed matters for a time.

For some years, however, previous to 1887 the conflict between the two families had broken out with renewed vigour, hence the two Penghulu.

The question was referred to the Resident, it was referred to the Raja, and a decision was after considerable antagonism from the family of the Penghulu holding office, eventually arrived at.

It was this, that the old custom should be reverted to; that the two families should take it in turn for the Penghuluship and equally so for the office of Andatar. There was a great feast and many rites were gone through, many proverbs, wise saws and Menangkabau legal phrases quoted, and the thing was done. There has been no difficulty since.

Here again is a case that has only been referred to as having created ill-feeling, but which illustrates the Baten influence in State matters. Baten Gemala, the principal Baten of Johol, who lives some miles in the interior on the left bank of the Muar River, was induced, in consequence of a number of his people becoming Muhammadans and of other Muhammadan settlers arriving in the rantaus (reaches) of the Muar River above Segamat called Muar, to consider recently the advisability of bringing forward a Penghulu.

The Penghulus of States having by origin been brought into office by the Baten, this was no doubt constitutionally correct.

Baten Gemala brought the individual whom he had selected to the Dato' of Johol in order that the Dato' should recognise this new Penghuluship. The Dato' of Johol did so. He thought it would conduce to a settled population in Muar, where formerly, like on many other rivers, the people of the "Rantau" had been nomadic, moving from "rantau" to "rantau" and never permanently settling. The Penghulu of Ladang, however, whose ancestors before him had always ruled this district under the Penghulu of Johol, was much annoyed at this new departure and the result was quarrels and jealousies. Penghulu Muar died a short time ago and the Dato' of Johol will not make further experiments in accepting a Baten Penghulu.

The case of the Raja di Muda of Terachi, Lembaga of the tribe of Beduanda, is not without interest. It was decided only recently, but may be quoted as showing how the Chief of a tribe must recognise the Penghulu and cannot depart from the usages and customs required of him in his office. I would remark parenthetically that the titles Raja di Muda, Beginda Maharaja, &c., are only titles of commoners not of Rajas. These titles are derived from the Menangkabau customs of "gěláran" which I shall make mention of further on.

An important case of inheritance of personal not entailed property occurred in Terachi. The case came to the Penghulu in appeal. The Penghulu gave his decision in the case. The decision was given against the Raja di Muda tribe. Raja di Muda considered himself ill-treated and the Penghulu himself brought the case before the Resident, who decided in favour of the Penghulu's decision, but modifying the Penghulu's decision in consultation with the Penghulu himself. From that date Raja di Muda has placed himself in every State matter in opposition to the Penghulu and has become a violent obstructionist. The Penghulu for some time took no notice of this, but at last a serious constitutional error was recorded amongst the many acts of Raja di Muda. The mother of an officer with the title of Mendika and of the tribe of which Raja di Muda was Chief, died. Mendika is what is termed the "Tiang Balei" of the Penghulu, that is, the centre post of the

Penghulu's office. The Penghulu must immediately be officially informed, and various rites have to be gone through. The funeral has to be officially arranged by the Penghulu. All this Raja di Muda ignored, carried it through himself with a high hand and the Penghulu was never consulted. This was too much and the whole matter was reported. Enquiries were made, the Penghulu sent for Raja di Muda, who did not come, and the Penghulu asked to be allowed to dismiss Raja di Muda and that the re-election of another officer be recognised. This was accorded. To the outside world this may appear trivial, but to the Malay mind the Raja di Muda had by his last action placed himself in direct and meaning antagonism to the Penghulu absorbing the Penghulu's rights in his own, and this could not be.

A case in Rembau is one of some interest. The Chief of the Sri Melenggang tribe became intensely unpopular in a certain section of his tribe, in consequence undoubtedly of irregularities he had committed in that section. After a good deal of seething and boiling in the tribe the whole matter bubbled up before the Penghulu and ruling Waris of Rembau (*vide* Origin and Constitution). The Penghulu referred the matter back to the tribe for further consultation and for proofs to be brought forward of the complaints made. The plaintiffs went away and not long after it was rumoured abroad that a new Chief had been elected, the actual holder of the office not having been formally deposed with the sanction of the Penghulu. Then the Penghulu and Waris enquired the meaning of these signs, such as the firing of guns, the hanging of curtains in the house of one MARASHAD and let the tribe explain the adoption of such forms which were only allowed to a Chief. The disaffected ones in the tribe asked for a meeting of all the Chiefs at which they would present themselves. The Penghulu accorded this and ordered the Chiefs to be present at his Balei. The day arrived. All were congregated. A message came from those disaffected who were outside the fence of the house in the *padang* or field for the Waris to come out and meet the new Chief and escort him to the Penghulu's presence. This created general consternation and after deliberation it was

decided that this was unconstitutional, that the Chiefs had not met for the purpose of receiving a newly elected Lembaga, but to deliberate on the shortcomings of the existing one. The answer was couched in these terms. Again the demand was made, and again it was refused. Nothing more occurred at the time, but the Penghulu and Waris applied for the arrest of the ringleaders in this unconstitutional proceeding. This was granted and the arrests were made. The defence was that the tribe was dissatisfied with its Chief, that the tribe had the right of electing its Chief. Against this it was urged that there could be at no time two Chiefs in the same tribe. That the Penghulu had not acknowledged the dismissal of the existing Chief, that the action of the disaffected members outside the Penghulu's Balei was not customary, and that the prisoners had been guilty of attempting to make disturbances in the tribe in no way warranted by the constitution. The ringleaders were comparatively heavily fined and the original complaints against the Chief were again referred for enquiry to the Council of Chiefs (*Waris serta orang yang dua blas*).

In 1887, the Rembau Chiefs were all divided against the Penghulu. The point at issue was that of revenues from waste lands. The question commenced to assume a very serious aspect when a force of thirty or forty armed Malays stopped a Chinaman, to whom the Penghulu had granted forest land for planting, from felling the forest. This act on the part of the insubordinate Chiefs resulted in a very elaborate enquiry. The disaffected Waris urged that they had never received any part of revenues and the Chiefs of tribes urged with the disaffected Waris that they were entitled to revenues from waste lands in the vicinity of their holdings. The Penghulu and his friends, however, denied the statements of the disaffected Waris. They also brought up a point of importance, viz., that if the Waris had a grievance they should do everything they could to settle it in the tribe. If they could not that they should together bring the matter to the Penghulu's Balei. This had not been done and the Penghulu had been ignored throughout. The disaffected Datohs at the enquiry all asked to leave the Balei of the Penghulu and urged

the other Chiefs to do the same. Nearly all the Chiefs left. This was a sign that they were going out to try and arrive at an agreement to depose the Penghulu, but in this they failed, and returned without having been able to be of one mind in the matter (*kabulatan*). Then came the question of the Lembaga claiming a share of the revenue from waste lands. Now, according to the custom a Lembaga has no rights in the State except in his tribe and over the land which he bought from the Waris (*tanah bertebus*). It was evident that the mere fact of purchase gave him no rights to other waste lands, the matter was discussed at great length, the Lembagas bringing up numbers of sayings and laws that were useless by themselves being all governed by the main laws, viz., "*Gaung, Guntong, Bukit, Bukau Herta Waris, Penghulu prentah loa, Lembaga prentah suku*", i. e., that all waste lands were the property of the Waris, that the Penghulu ruled the State and the Lembaga ruled his tribe. The case was given entirely against the Lembagas. This being done and the disaffected Waris and Lembagas having been proved to be wrong, it was necessary to consider the crime they had committed against the State. They were found guilty of departing from the constitution and of ignoring the rules of appeal and the ancient customs and usages of the State of Rembau. They were all dismissed from their posts and the families in each tribe were sent for in order that re-elections should be made. This was done and this one decision has restored the Penghulu as head of the State, the Waris as inheritors of waste lands, and the Lembaga as rulers in their tribes.

This was a very leading case in reference to all the States of the Negri Sembilan, and by it every State has been maintained on the same lines.

In Sri Menanti there were terrible disputes regarding ownership to mines and Waris claims. Because a Waris claimed as a Waris he also claimed ownership. This was evidently wrong. The Waris' claim was a State claim, ownership was a private claim. Thus by giving a small percentage of tin revenues to the heads of the Waris tribe and by registering the various mines to the owners and legalizing a royalty to

be paid to them by the Chinese miner, the difficulty was overcome and every one became contented. The late Yam Tuan of Sri Menanti, in order to make a last attempt at quieting a very turbulent and powerful Waris faction in Ulu Muar, had married a lady of this family. This unfortunately did not improve matters, as although this faction became friendly with the Raja it started terrible struggles with all the other Waris and even with the tribes and being allied to the Raja became more formidable to the peace of the country than hitherto.

Land cases are not very frequent here as land is so well defined by custom. At the same time there have been a number of cases which dated from previous years and had never been settled. Directly a case was brought up again faction fights occurred and then the case was again left unsettled. A very old case at Ampang Serong, about five miles from Kwala Pilah, required immediate settlement. It was as between the tribe of Beduanda Waris and the tribe of "Tiga Batu." The Waris first claimed that they had never sold the land and that it had been appropriated by the Tiga Batu tribe. This, however, they failed to prove, as it was ruled that they could not claim purchase money after upwards of one hundred years of occupation. Then they claimed proprietorship of a great portion saying that the Tiga Batu tribe had encroached. The Tiga Batu tribe on the other hand said that the land had been mortgaged to the Waris for fifty dollars (\$50). The whole case was investigated on the spot. It was perfectly evident that the Waris' claim was incorrect. They claimed the paddy land and had forgotten to consider the hill land on the side of the valley where the houses and gardens are. Taking the hill land in the occupation of the tribe, it was evident that in accordance with the ancient usage of selling land in straight strips across a valley or across it up to the main stream the land claimed actually did belong to the tribe of Tiga Batu though in consequence of the mortgage of the paddy field to the tribe of Waris it had been for years cultivated by the Waris holder of the mortgage. It was ordered that the amount of the mortgage should be paid to the Waris tribe and that the land should remain in the possession of the tribe of Tiga Batu.

Land once held by a tribe is very seldom sold to other tribes. If debts have been incurred and a person's holding has to be sold it is nearly always bought in by the tribe and this avoids many complications in proprietorship that might otherwise arise. There are of course disputes in a tribe, but these are disputes of inheritance more than of boundaries and are far more easily settled. The technical terms for land purchased from the Waris and the dry outline of land tenure has already been described in my former paper. I have referred also to "*herta membawa*," that is, property brought by the husband to his wife's house, as in these States, the women being inheritors of all lands, the man always goes to his wife's house ("*tempat semenda*"). If he divorces or his wife dies he returns to his mother's house ("*herta pesaka*"). Cases of "*herta membawa*" are most difficult to decide upon. I will give an instance. A foreign Malay from Sungei Ujong married a woman in Ulu Muar; he was accidentally wounded by a spring gun that had been set for pig, and died. His mother who lived in Sungei Ujong was informed by letter by the Chief of her daughter-in-law's tribe. The mother arrived and claimed \$150 worth of property that she had given to her son when he was coming to live with his wife here and which she stated he had brought to his wife's house. The *orang semenda* or male relations of the lady denied this saying that the property had never been declared to them as "*herta membawa*" which was necessary and that they altogether discredited the statement. After hearing a mass of contradictory evidence with good points on both sides, it was ruled that the mother would not have claimed without cause and awarded to her half the amount claimed.

A question of some importance and which has not yet been decisively settled is that of "*pencharian berdua*," i. e., the fortune acquired by husband and wife apart from "*herta membawa*" or "*herta pesaka*."

The law runs "*chari b'hagi dapatan tinggal bawa kembalek*." This cannot be translated literally, but it means that the money acquired by husband and wife must be divided, each person's share remain to each, and the husband's share

must go back to his mother's house or to his "*anak buah*," that is, his blood relations. That property of this kind should not go entirely to the children made a great deal of difficulty, as it is not in accordance with Muhammadan law and in Rembau the Chiefs decided that all property other than "*herta pesaka*" or "*herta membawa*" became unconditionally the property of the children and could not in any case return to the man's relations. It was ruled, however, that land should not be affected, coming as it does under "*herta pesaka*" and that weapons, ornaments and silver utensils which were "*herta pesaka*" must be returned. Also that "*herta membawa*" could still be claimed by the man's relations. In Jempol where the people are very Muhammadan also this has been adopted, I will relate a case, however, which created great discussion.

A man died the possessor of ten buffaloes. His child was a boy seven years old. The man's brother took the buffaloes back to his mother's house in order, it was supposed, to take care of them until his nephew came of age. The boy grew up and when he was about fifteen he claimed these buffaloes from his uncle, who would not satisfy his demand. The case came forward as the Chiefs could not settle it to the satisfaction of all parties.

The boy claimed the buffaloes. The uncle first said the buffaloes had died of disease. Enquiries were made and it was found that he possessed buffaloes. The boy said that even if the buffaloes had died of disease his uncle should have informed his mother's family. Then came the question of inheritance, trusteeship, and the guardianship of the buffaloes, finally the question of "*herta membawa*." The uncle first urged that the boy's father had brought a number of buffaloes to his wife's house from his mother's house and that they should be returned. After a considerable enquiry it was found that there was no reliable evidence of this. Then the uncle claimed that according to the Malay rule, he being the caretaker of the buffaloes, was entitled to one-half of the buffaloes now that his nephew wished to divide. The boy said that his uncle had had no right to take the buffaloes. Then came the question of inheritance. The uncle said he only knew the old rule of

"*chari bhagi dapatan tinggal bawak kembalek*" and claimed half the buffaloes. The boy said he knew that in Jempol the Muhammadan custom had been adopted that property acquired during marriage became the property of children and not of the "*anak buah*;" finally it was decided that half the buffaloes should be handed to the boy in satisfaction of all claims. It will be seen from this example how many rules there are in these States that may be brought forward in a case, in connection with which careful investigation is required. If, however, a dispute is carefully summed up and the points fully explained which lead to the decision, the public here is nearly always satisfied and the individual who loses his case has to be satisfied also.

In connection with inheritance by the children, of property acquired during married life, it is necessary for the children to pay their father's debts if there are any. If there is no property even the children are responsible for the debts of their father. Where the old rule is in force the "*tempat semenda*" and the "*tempat pesaka*" would have to arrange together to pay, and not only that but the "*anak buah*" were supposed to pay the funeral expenses of their male relation and not the "*orang semenda*." It is still a question that has to be very carefully investigated in every case of debt, viz., as to whether one of the two should pay all.

The rules of "*pantang larang*" are important, minor laws on dress, on the architecture of houses, of covered gates to enclosures, of the firing of guns, the slaughtering of buffaloes and many other causes. For instance, no one but a Chief may have a covered gateway. No one but a Raja may put his kitchen behind the house, and no one but a Raja may run his front verandah round to the back. No man may wear all yellow nor all black. A quaint custom is that of "*gěláran*." When a man marries, the "*orang semenda*" of his wife assemble together. Here all property questions are brought forward and decided such as "*herta membawa*," &c. The "*orang semenda*" then confer a title on the man, such as "*Mentri*" "*Si Maraja*" "*Peduka Raja*" "*Laksamana*" and many others.

It must be borne in mind though, in connection with all these customs and laws, that Muhammadan law is always present and is enforced in many cases, but it requires careful handling. Nothing is more distasteful to the people than that Muhammadan law should be applied where custom provides the remedy, and as the Kathi is generally anxious to exercise Muhammadan law only, great care has to be taken to prevent him from interfering in cases of custom.

What I have written may throw some light on the working of a curious constitution.

MARTIN LISTER.

